

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

IN RE

GRETA V. NOBLE,
AKA GRETA NOBLE,

DEBTOR.

CHAPTER 7

CASE NO. 8-17-77059-ast

JUDGE: Alan S. Trust

MOTION DATE: April 12, 2018

MOTION TIME: 10:30 A.M.

PLEASE TAKE NOTICE that upon the annexed affirmation of Shari S. Barak, a member of the law firm of Shapiro, DiCaro & Barak, LLC, attorneys for Wells Fargo Bank, N.A. as Servicing Agent for Wells Fargo USA Holdings, Inc. ("Movant") will move this Court as set forth below:

JUDGE: HON. Alan S. Trust

RETURN DATE & TIME: April 12, 2018 at 10:30 A.M.

COURTHOUSE: United States Bankruptcy Court
Alfonse M. D'Amato U.S. Courthouse
290 Federal Plaza
Central Islip, NY 11722

RELIEF REQUESTED: The proposed order will seek to vacate the automatic stay imposed by 11 U.S.C. § 362(a) generally described as 22 Milano Avenue, Central Islip, NY 11722, pursuant to 11 U.S.C. § 362(d)(1) based upon the total debt due to Movant, resulting in Movant's lack of adequate protection or, pursuant to 11 U.S.C. § 362(d)(2), inasmuch as the estate has no equity in the aforementioned property with regard to the subject property.

PLEASE TAKE FURTHER NOTICE, that answering affidavits, if any, to the relief requested, must be served upon and received by Shapiro, DiCaro & Barak, LLC at their offices at One Huntington Quadrangle, Suite 3N05, Melville, NY 11747 and filed with the Clerk of the United States Bankruptcy Court for the Eastern District of New York at United States Bankruptcy Court, Alfonse M. D'Amato U.S. Courthouse, 290 Federal Plaza, Central Islip, NY 11722 no later than seven (7) days prior to the return date of this motion.

Dated: January 23, 2018
Melville, New York

___/s/Shari Barak

Shari S. Barak
Managing Attorney
Shapiro, DiCaro & Barak, LLC
Attorneys for Wells Fargo Bank, N.A. as Servicing
Agent for Wells Fargo USA Holdings, Inc.
One Huntington Quadrangle, Suite 3N05
Melville, NY 11747
Telephone: (631) 844-9611
Fax: (631) 844-9525

THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. THIS NOTICE IS REQUIRED BY THE PROVISIONS OF THE FAIR DEBT COLLECTIONS PRACTICES ACT AND DOES NOT IMPLY THAT WE ARE ATTEMPTING TO COLLECT MONEY FROM ANYONE WHO HAS DISCHARGED THE DEBT UNDER THE BANKRUPTCY LAWS OF THE UNITED STATES.

TO: SERVICE LIST

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

IN RE

GRETA V. NOBLE,
AKA GRETA NOBLE,

DEBTOR.

CHAPTER 7

CASE NO. 8-17-77059-ast

JUDGE: Alan S. Trust

MOTION DATE: April 12, 2018

MOTION TIME: 10:30 A.M.

**AFFIRMATION IN SUPPORT OF
ENTRY OF AN ORDER GRANTING
RELIEF FROM THE AUTOMATIC STAY**

Shari S. Barak, an attorney at law duly admitted to practice before the Courts of the State of New York and the U.S. District Court for the Eastern District of New York, hereby affirms the following to be true under penalty of perjury:

1. I am a member with the law firm of Shapiro, DiCaro & Barak, LLC, attorneys for Wells Fargo Bank, N.A. as Servicing Agent for Wells Fargo USA Holdings, Inc. ("Movant"), a secured creditor of Greta V. Noble aka Greta Noble ("Debtor"). As such, I am fully familiar with the facts and circumstances of this case.

2. I make this Affirmation in support of the within request for an Order Granting Relief from the automatic stay, for cause, pursuant to 11 U.S.C. § 362(d)(1) and (2).

3. Jurisdiction is conferred on this Court by the provisions of 28 U.S.C. § 1334. This is a proceeding to terminate and annul the automatic stay and is therefore a "core" proceeding within the meaning of 28 U.S.C. § 157(b)(2).

4. Movant is a secured creditor of the Debtor pursuant to a note executed by Greta V. Noble and non-filing co borrower Leigh W. Noble (the "Co-Borrower") whereby Greta V. Noble and Leigh W. Noble promised to repay the principal amount of \$261,820.07, plus interest to

Wells Fargo Financial Credit Services New York, Inc. (the “Note”). To secure the repayment of the Note, Greta V. Noble and Leigh W. Noble granted Wells Fargo Financial Credit Services New York, Inc. a mortgage, which was duly recorded in the Suffolk County Clerk's Office on June 22, 2005 in Liber M00021073, Page 444 (the “Mortgage”), encumbering real property located at 22 Milano Avenue, Central Islip, NY 11722 (the “Property”). Copies of the Note and Mortgage are annexed hereto as **Exhibit “A”**.

5. Upon information and belief, the Debtor herein own(s) the Property.

6. Debtor filed a petition for relief under Chapter 7 of the U.S. Bankruptcy Code on or about November 15, 2017.

7. Debtor has failed to make current mortgage payments due to Movant under the terms of the Loan. As a result, the Mortgage remains due for the June 1, 2017 payment and each subsequent payment thereafter.

8. The amount of delinquency due as of January 12, 2018 under the Mortgage is as follows:

1 Defaulted Monthly Payments at \$2,721.01 each (June 2017 through June 2017)	\$2,721.01
6 Defaulted Monthly Payments at \$2,775.22 each (July 2017 through December 2017)	\$16,651.32
1 Defaulted Monthly Payments at \$2,412.38 each (January 2018 through January 2018)	\$2,412.38
Other Fees	\$324.69.
Total Delinquencies	<u>\$22,109.40</u>

9. A copy of the Relief from Stay-Real Estate and Cooperative Apartments (“Affidavit”) is annexed hereto as **Exhibit “B”**.

10. Moreover, in view of the total debt due to Movant and in light of the Debtor's failure to make payments, Movant is no longer adequately protected. The automatic stay must be vacated for cause pursuant to 11 U.S.C. § 362(d)(1).

11. As set forth in the Affidavit, as of January 12, 2018, the approximate debt due and owing to Movant equals \$221,431.09. The debt is accruing interest at a rate of 5.3750% per annum.

12. Based upon the Debtor's Schedule A/B, the Property has an estimated fair value of approximately \$186,625.00. A copy of Debtor's Schedule A/B is annexed hereto as **Exhibit "C"**. As indicated in paragraph 11 herein above, the total debt to Movant equals \$221,431.09. As such, there is no dispute that the debt due to the Movant exceeds the value of the Property. By the Debtor's own valuation, the estate has no equity in the Property sought to be foreclosed. Accordingly, relief from the automatic stay is also warranted under 11 U.S.C. § 362(d)(2).

13. Movant, according to the laws of the State of New York and the terms and conditions of the Mortgage, desires to continue and/or commence foreclosure proceedings with respect to the Property.

14. The Debtor, Debtor's Attorney, the Chapter 7 Trustee and the Office of the United States Trustee have each been duly served with the within Notice of Motion, Affirmation, Exhibits and proposed Order Vacating Stay, as more fully set forth in the annexed affidavit of mailing.

15. No prior application has been made for the relief requested herein.

WHEREFORE, Movant respectfully requests an Order of this Court vacating the automatic stay for cause pursuant to 11 U.S.C. § 362(d)(1) and (2) as to the aforementioned Property; allowing Movant, its agents, assigns or successors in interest, leave to exercise its rights pursuant to the Note and Mortgage including but not limited to foreclose the Mortgage secured by the subject Property; and for such other, further and different relief as to this Court may seem just, proper and equitable.

Dated: January 23, 2018
Melville, New York

 /s/Shari Barak

Shari S. Barak
Managing Attorney
Shapiro, DiCaro & Barak, LLC
Attorneys for Wells Fargo Bank, N.A. as Servicing
Agent for Wells Fargo USA Holdings, Inc.
One Huntington Quadrangle, Suite 3N05
Melville, NY 11747
Telephone: (631) 844-9611
Fax: (631) 844-9525